

DOCKET FILE COPY ORIGINAL

# Shainis & Peltzman, Chartered

Counselors at Law

Suite 240  
1850 M Street, N.W.  
Washington, D.C. 20036

(202) 293-0011

Fax (202) 293-0810

e-mail: shainispeltzman@s-plaw.com

Aaron H. Shainis  
aaron@s-plaw.com

Lee J. Peltzman  
lee@s-plaw.com

ORIGINAL

Of Counsel

Robert J. Keller  
bob@s-plaw.com

September 10, 2003

RECEIVED

SEP 10 2003

**VIA HAND-DELIVERY**

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
Portals II - 12<sup>th</sup> Street Lobby  
Filing Counter - TW - A325  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

**Re: MM Docket No. 02-167  
RM-10479, 10770  
(Eldorado, Texas)  
Reply Comments**

Dear Ms. Dortch:

Transmitted herewith, on behalf of BK Radio, are an original and four (4) copies of its Reply Comments in the above-referenced proceeding. In the event the Commission has any questions with respect to the filing of these Reply Comments, please contact the undersigned.

Respectfully submitted,



Lee J. Peltzman  
Counsel for  
BK RADIO

Enclosures

cc: Deborah Dupont (w/encl.) - via hand delivery

No. of Copies rec'd 0+4  
List ABOVE

BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

RECEIVED

SEP 10 2003

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In re Amendment of Section 73.202(b) )  
of the Commission's Rules, Table of Allotments, ) MM Docket No. 02-167  
FM Broadcast Stations ) RM-10479, 10770  
(Eldorado, Texas) )

To: Chief, Audio Division  
Media Bureau

**REPLY COMMENTS**

BK Radio ("BK"), licensee of Station KOTY(FM), Mason, Texas, by its counsel and pursuant to the Commission *Public Notice*, Report No. 2624, released August 26, 2003, hereby submits its Reply Comments in the above-captioned proceeding.

The *Public Notice* accepted for filing BK's counterproposal in this proceeding proposing, *inter alia*, to change the channel of Station KOTY, Mason, Texas from Channel 239C2 to Channel 240C2 and relocate the station from Mason to Mertzon, Texas.

BK reaffirms its expression of interest in implementing a Commission action substituting Channel 240C2 for Channel 239C2 and allowing the reallocation of that channel from Mason to Mertzon, Texas. As noted in its previously filed Counterproposal and Comments, the reallocation of Channel 240C2 to Mertzon as a second service to that community would compare favorably to the original rulemaking proposal set forth in this proceeding, which would allot Channel 241A to Eldorado, Texas, as that community's fourth local service.<sup>1</sup> Moreover, the BK counterproposal would result in new aural service to over 80,000 persons, whereas the Eldorado proposal would provide new service to only 2,000 persons.

---

<sup>1</sup> *Eldorado, Texas*, 18 FCC Rcd 1037, 1038 (2003).

In the event the Commission did not wish to conduct a comparison of the Mertzson and Eldorado proposals, BK also proposed an alternate proposal that would permit the Commission to grant the Channel 240C2 reallocation to Mertzson and also provide an additional service to Eldorado. While the Mertzson reallocation proposal remains the superior proposal under the Commission's allotment priorities, should the Commission desire to provide service to both communities, it may consider doing so consistent with BK's alternate proposal.<sup>2</sup>

The Commission should grant BK's counterproposal for the reasons stated herein.

Respectfully submitted,

BK RADIO

By: 

Lee J. Peltzman  
Shainis & Peltzman, Chartered  
1850 M Street, N.W.  
Suite 240  
Washington, D.C. 20036  
(202) 293-0011  
Its Counsel

Date: September 10, 2003

---

<sup>2</sup> BK's alternate proposal, which the Commission need examine only if it does not choose to conduct a comparison of the BK Mertzson counterproposal and the initial Eldorado proposal, envisioned allotting Channel 263A rather than Channel 241A at Eldorado, resulting in the substitution of Channel 261A for Channel 263A at Rocksprings, Texas, Channel 283C for Channel 263C at Fort Stockton, Texas, Channel 278C, 276C or 243C for Channel 283C at Balmorhea, Texas and the deletion of Channel 263C at Abilene, Texas from the FM Table of Allotments since Station KHYS(FM) has always operated on Channel 264.

### Certificate of Service

I hereby certify that I have this 10<sup>th</sup> day of September, 2003, sent a copy of the foregoing Reply Comments by first class United States mail, postage prepaid to:

Katherine Pyeatt  
6655 Aintree Circle  
Dallas, TX 75214

Sharon P. McDonald\*  
Federal Communications Commission  
445 12th Street, S.W., Rm. 3-A226  
Washington, D.C. 20554

Linda Crawford  
3500 Maple Avenue  
Suite #1320  
Dallas, TX 75219

Jeraldine Anderson  
1702 Cypress Drive  
Irving, TX 75061

Marissa G. Repp, Esq.  
Hogan & Hartson, LLP  
555 13<sup>th</sup> Street, NW  
Washington, D.C. 20004-1109

Christopher L. Robbins, Esq.  
Wiley, Rein & Fielding, LLP  
1776 K Street, NW  
Washington, D.C. 20006

  
Karen D. McNeill

\* Via Hand Delivery